

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KEVIN MELILLO,

Plaintiff,

v.

SELECTIVE INS. CO.,

Defendant.

Civil Action No. 13-7542(FLW)

ORDER

THIS MATTER having been opened to the Court on a Report and Recommendation by the Magistrate Judge; it appearing that in this Report and Recommendation, the Magistrate Judge, after weighing the factors set forth in *Poulis v. State Farm Casualty Co.*, 747 F.2d 863 (3d Cir. 1984), found that dismissal with prejudice was appropriate because Plaintiff Kevin Melillo (“Plaintiff”) failed to submit certain documents at the Magistrate Judge’s direction, and because Plaintiff failed to appear at an Order to Show Cause hearing; it appearing that subsequently, Plaintiff submitted a response to the Magistrate Judge’s Report and Recommendation, wherein Plaintiff explained that he does not oppose a dismissal of his case, however, Plaintiff requests this Court to dismiss this matter without prejudice because he is actively filing certain required proof of loss related to his insurance claims; it appearing that while this Court concurs with the Magistrate Judge’s findings relating to the *Poulis* factors, this Court does not find a dismissal with prejudice appropriate in light of Plaintiff’s reasoning for his conduct; accordingly, having reviewed the Magistrate Judge’s Report and Recommendation,

IT IS on this 19th day of February, 2015,

ORDERED that the Magistrate Judge's December 9, 2014 Report and Recommendation is hereby **ADOPTED** and **MODIFIED**; and it is further

ORDERED that Plaintiff's claims are dismissed **WITHOUT PREJUDICE**; and it is further

ORDERED that this case shall be marked as **CLOSED**.

/s/Freda L. Wolfson
Hon. Freda L. Wolfson,
United States District Judge